

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

THE UNITED STATES OF AMERICA

PLAINTIFF

VS.

CIVIL NO. 3:16CV00622CWR-FKB

THE STATE OF MISSISSIPPI

DEFENDANTS

TRIAL TRANSCRIPT
VOLUME 8

BEFORE THE HONORABLE CARLTON W. REEVES
UNITED STATES DISTRICT JUDGE
MORNING SESSION
JUNE 11, 2019
JACKSON, MISSISSIPPI

REPORTED BY: CHERIE GALLASPY BOND
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2 FOR THE PLAINTIFF: MS. REGAN RUSH
3 MS. HALEY VAN EREM
4 MR. JORGE MARTIN CASTILLO

5 FOR THE DEFENDANT: MR. JAMES W. SHELSON
6 MR. REUBEN V. ANDERSON

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1 THE COURT: Good morning. I apologize for the delay.
2 I had a last-minute issue to come up on another matter. Is
3 there anything we need to take up before we begin?

4 MS. RUSH: Good morning, Your Honor.

5 THE COURT: Good morning, Ms. Rush.

6 MS. RUSH: I do have just a few housekeeping matters
7 around scheduling I wanted to make the court aware of.

8 THE COURT: Okay.

9 MS. RUSH: This morning we have two family members of
10 individuals with mental illness who will be witnesses, then
11 followed by one of your experts from our clinical review.

12 THE COURT: Okay.

13 MS. RUSH: I would anticipate, though, that we'll
14 probably be able to end a little early today, maybe early
15 afternoon, if that's okay with the court. We also anticipate
16 that we may not need -- we may not need Friday. Our witnesses
17 are coming from out of town, and we had some scheduling
18 difficulties, so we'll have one witness on Monday, and we'd be
19 able to end I think by early to mid afternoon on Monday. We'll
20 know a little bit more after the next couple of days, but at
21 this point, I just wanted to make sure you're aware that we may
22 not have a witness ready for Friday.

23 THE COURT: Okay. That's fine. That's fine. Unless
24 the State objects in any way, and I'm pretty sure they don't,
25 but I can speak for them.

1 MR. SHELSON: Your instincts are correct, Judge.

2 THE COURT: Okay.

3 MS. RUSH: Thank you, Your Honor. Ms. Van Erem will
4 present the witnesses for the United States this morning.

5 THE COURT: All right. Thank you.

6 MS. VAN EREM: Good morning, Your Honor.

7 THE COURT: Good morning.

8 MS. VAN EREM: Haley Van Erem for the United States.

9 The United States calls HB.

10 MS. VAN EREM: All right. Your Honor, as Ms. Rush
11 said, the first two witnesses we have are family members of
12 people who have been admitted to state hospitals. To protect
13 the confidentiality of their family members, we'll be using
14 initials.

15 Okay. Thank you. HB.

16 (Witness Sworn)

17 THE COURT: Sir, before you is the microphone. Just
18 speak loudly and clearly for everyone to hear you. Please
19 speak at a pace at which the court reporter can keep up with
20 you because she's taking down everything that's said.

21 Allow the attorneys to finish their questions before
22 you begin to speak so that the two of you will not be speaking
23 at the same time. And make sure all your responses are verbal,
24 yes or no, if you're going to nod or shake your head, and try
25 to avoid using uh-huh and unh-unh because they may be spelled

the same in the record. But we'll try to -- if that happens, we'll try to make sure we clean it up a little bit.

But for the record, sir, could you please state and spell your name.

THE WITNESS: H[REDACTED] B[REDACTED] .

THE COURT: Thank you, Mr. ████████. Ms. Van Erem, you may proceed.

MS. VAN EREM: Thank you.

HB,

having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. VAN EREM:

Q Mr. HB, thank you for being here today. For the purpose of my questions I would appreciate if you focus on the facts that existed through the end of 2018, which is the relevant period for purposes of trial. Do you understand that?

A Yes, ma'am.

Q Where do you live?

A I have two residences. One is in Moss Point on the coast, in Mississippi, and the other one is in Fairhope, Alabama. I spend a great deal of my time in Fairhope.

Q Are you employed?

A I'm retired.

Q Where have you worked in the past?

A Right out of high school, I worked for about six months

1 with International Paper in Mobile. And from there, I went to
2 work in 1962 to 1970 with Louis Dreyfus Grain Elevator in
3 Jackson County, Mississippi in Pascagoula. And from '70 to
4 '82, I was a police officer with Pascagoula Police Department.
5 Seven of those 11 years that I was there, I was a criminal
6 investigator. And then in '62, I went to work with Allstate
7 Insurance Company and worked there until '97 -- '98, excuse me,
8 '98, at which time I retired on a disability.

9 THE COURT: You said in -- you said '62, you started
10 at Allstate. Did you mean '92 or some other date?

11 A Excuse me.

12 THE COURT: I'm sorry.

13 A That's okay. I appreciate that. I started with
14 Allstate -- I was with the police department from '70 to '82
15 and I went with Allstate in '82.

16 THE COURT: Okay.

17 BY MS. VAN EREM:

18 Q And do you have any children?

19 A Yes. I have a daughter that's 52 years old, and I adopted
20 my grandson, which is a child that she birthed, and I am
21 legally his father as well, based on the birth certificate.

22 Q Does your daughter have experience being admitted to the
23 state hospital in Mississippi --

24 A Yes, she does.

25 Q Okay. Are your daughter's initials S.B.?

1 A Ma'am?

2 Q Are your daughter's initials S.B.?

3 A Yes, ma'am.

4 Q Are you S.B.'s conservator?

5 A Yes, I am.

6 Q What does that mean?

7 A Granted by the Chancery Court of Jackson County, I was
8 granted with a full conservatorship to manage her financial and
9 her medical needs, basically to oversee all aspects of her
10 life.

11 Q I'd like to start with some general questions about your
12 daughter. What types of activities does your daughter like to
13 do?

14 A Like most ladies, she loves to shop. Her main focus of --
15 that I would refer to as a hobby is that she finds drawing very
16 fulfilling, and she loves to draw.

17 Q What are her strengths?

18 A Survival of coping with her illness is one of her main
19 strengths.

20 Q Does she live in Mississippi?

21 A Yes, she does.

22 Q How long has your daughter lived in Mississippi?

23 A She was born January 7th, 1967, at Singing River Hospital
24 in Jackson County, Pascagoula, Mississippi. And when she was
25 in her early teens, her mother and I divorced, and they moved

1 temporarily for a short period over to Mobile, where her
2 mother, after about less than a year, I suppose, was
3 transferred by her employment to Atlanta. And they moved to
4 Atlanta, and she was there for a couple of years. And then in
5 '90, she came back to reside with me in Mississippi.

6 Q Has she lived in Mississippi since 1990?

7 A Yes.

8 Q Where does she live now?

9 A She's in a program at -- in a four-person group home in
10 Mendenhall, Mississippi that's operated by Region 8 Mental
11 Health.

12 Q Please briefly describe your daughter's mental health
13 diagnoses.

14 A Over the years the diagnosis has evolved or changed from
15 time to time, and I've learned that by dealing with her over a
16 period of 52 years, that in mental health, the symptoms that
17 you're displaying at the time of treatment is -- usually drives
18 the diagnosis. But for all general purposes, she is bipolar
19 with schizoaffective disorder, and she is borderline
20 personality disorder, and she has a ID, an intellectual
21 disability. Her testing score is -- ranges from 71 -- overall
22 testing, ranges in the 71, 72 range, which is borderline,
23 referred to as borderline retardation. And I try not to use
24 the word because it's not appropriate, but it's hard to avoid
25 from time to time.

1 In some areas of her most recent testing, she dipped down
2 below -- way below the 69 in maturity. In some respects, she
3 actually -- her behavior can be infantile.

4 Q When was she diagnosed with these conditions?

5 A The ID was first noticed when she was six years old in the
6 first grade. That was the first thing that was noticed when
7 she began school in Pascagoula, Mississippi. And they were
8 just beginning LD classes in the state at that time, learning
9 disability classes.

10 Q When was she first diagnosed with her mental health
11 diagnoses?

12 A Sometimes after that date of when she was about ten or 11
13 or so, or maybe 12, the borderline was suspected by a doctor
14 named Sapata, from South Alabama, who treated her as a child.
15 He was a child psychiatrist and a teacher at South Alabama.
16 Then in the '80s, when she was in her late teens, early 20s,
17 the first incident occurred during that period that she and her
18 mother were living in Mobile. She stabbed herself in the
19 stomach and was acting out. And at that time, she was sent to
20 a private hospital in Dothan, Alabama.

21 Q What are the types of symptoms that your daughter has?

22 What symptoms does your daughter have?

23 A It -- when she is -- at times over the years, when she's
24 been not medicated properly, she's displayed behavior where she
25 had hallucinations. There were times that apparently that she

1 was showing paranoia. One time several years ago when -- at
2 one time, she was able to drive, and she had a state of
3 delusional behavior where she was insistent that someone was
4 trying to poison her, that they were putting something in her
5 car to cause her to die. As it turned out, it -- it was later
6 detected that there was some real -- something real going on.
7 There was antifreeze -- radiator or a heating component of the
8 car was leaking antifreeze, which was the smell that she
9 smelled, but she was extremely paranoid.

10 And then there are other times that she has been so
11 delusional, that she was running from what she thought was the
12 devil was after her, things of that nature.

13 Q How often do you keep in contact with your daughter?

14 A We try to talk at least once a week.

15 Q Are you familiar with her medical records?

16 A Yes.

17 Q Are you familiar with the services and treatment that your
18 daughter receives?

19 A Yes.

20 Q How many times has your daughter been in a state hospital
21 since she moved back to Mississippi in 1990?

22 A Twenty-three times.

23 Q Which state hospitals has she been in?

24 A She's been in East Mississippi State Hospital in Meridian
25 from beginning in '95 to 2011. She was there about 17

1 commitments to East Mississippi, and then she was discharged to
2 a personal care home in Booneville, Mississippi. And they
3 found the need to return her to, at that time, to North
4 Mississippi State hospital four different times for
5 stabilization. And then on the fourth time, they would not
6 accept her back. And then she was moved -- the State placed
7 her in a personal care home named Creation Elite.

8 Q Then after that, did she have two more state hospital
9 admissions?

10 A There was actually only one after that, unless I'm missing
11 one. I apparently left one out of the count that I gave,
12 because after some time at the Creation Elite, many months
13 later, it became necessary for her to be committed to
14 Whitfield.

15 Q That's Mississippi State Hospital?

16 A Mississippi State Hospital at Whitfield I understand is the
17 correct way.

18 THE COURT: I'm sorry. Let me ask a question. I'm
19 sorry. Tell me where Creation Elite is. Where is it; what
20 county?

21 THE WITNESS: Jackson.

22 THE COURT: On the coast?

23 THE WITNESS: No, sir, here in Jackson.

24 THE COURT: Oh, it's here in -- okay.

25 THE WITNESS: It's no longer in existence. It was

1 closed because of the abuse of her.

2 THE COURT: Okay. All right.

3 BY MS. VAN EREM:

4 Q So going back to your daughter's first admission, when was
5 she first admitted to a state hospital in Mississippi?

6 A I'm sorry. Would you repeat that?

7 Q What year was your daughter first admitted to a state
8 hospital in Mississippi?

9 A In Mississippi? In '95.

10 Q 1995?

11 A Yes.

12 Q Okay. Did you have personal experience visiting a state
13 hospital in Mississippi before your daughter was ever admitted
14 there?

15 A I did. Yes, I did.

16 Q Can you describe that experience?

17 A As a young police cadet, I went to the Mississippi Police
18 Academy, State Police Academy, which is located on the property
19 adjacent to Whitfield, and part of our training in 1970 was a
20 tour of Whitfield institution. And the first place they took
21 us on a driving -- the class on a driving tour was a village
22 that was located on the back grounds of Whitfield at the time,
23 and it was referred to as Mongoloid Village. And Mongoloid is
24 a term that's not acceptable to use. It's refers to people
25 with Downs Syndrome. And in this village was little brick

1 homes. And out in front of these homes, the folks gathered up
2 because of the cars coming through doing the tour that we were
3 in, and they were males and females, young and old, older,
4 living in these little houses on the back grounds.

5 I don't know what year that was closed, but it was later
6 closed, and those folks would have been transferred to Boswell,
7 which is there close to the property.

8 Another area of the hospital that they felt was helpful to
9 take us on was the criminally insane unit, where the folks that
10 had committed murders and so forth that could not stand trial,
11 that were ill to the point of not being responsible, were
12 housed.

13 Q What was your reaction to that experience?

14 A It was a terrible heart-rending experience. I never forgot
15 it.

16 Q Did that have an influence on where you wanted [REDACTED] to
17 be --

18 MS. VAN EREM: I'm sorry, Your Honor. Please strike
19 that. I accidentally said her name.

20 BY MS. VAN EREM:

21 Q -- on where you wanted your daughter to be placed?

22 A Yes, ma'am. Well, it affected me in such a way that I
23 thought to myself -- at the time, I was in my 20s, and my
24 daughter was about three years old. She was born in '67, so it
25 was '70. So she was about three years old back at home. And I

1 thought to myself, I would never want anyone that I loved to
2 have to be housed in a facility that was seemingly so inhumane.

3 And by 2014, I was put in a position where I had to do a
4 commitment to send her to that very hospital.

5 Q Was that difficult for you?

6 A Yes.

7 Q Now, approximately -- was this 2014 commitment that you
8 mentioned, was that her most recent admission to a state
9 hospital in Mississippi?

10 A Yes.

11 Q And how long was she in Mississippi State Hospital during
12 that most recent admission?

13 A I'm sorry?

14 Q How long was she in Mississippi State Hospital during that
15 most recent admission?

16 A She went in around January 30th of 2014, and she was
17 discharged to this new program at Mendenhall around the middle
18 of September of 2018, so about four years and eight months,
19 roughly.

20 Q Going to right before her most recent admission, where was
21 she immediately prior to entering Mississippi State Hospital at
22 Whitfield?

23 A Immediately prior, she had -- she was lost after -- during
24 the Christmas holidays of 2013, she had been at the owner of
25 Creation Elite's home, and she had disappeared from there. The

1 owner had said that the Jackson police had taken her. And the
2 Jackson police denied any knowledge of her and said that she
3 had went to -- that someone with mental health from Yazoo City
4 had picked her up. And my wife and I spent the next 29 days
5 tracing it down. And we finally found her in the woman's
6 detention center next door to the Jackson Police Department, or
7 in close proximity, the downtown woman's detention center.

8 Q Would that be the Hinds County Women's Detention --

9 A Hinds County Detention Center, yes, ma'am.

10 Q And you mentioned that she had been in a personal care home
11 before this happened?

12 A Yes.

13 Q Who originally placed her in the personal care home?

14 A The Mississippi Department of Mental Health through their
15 North Mississippi State Hospital.

16 Q When she was in the Hinds County Woman's Detention Center,
17 had she been charged with anything?

18 A Yes. Prior to -- while she was at the -- may I give a
19 clarification?

20 Q Yes.

21 A While she was at the Creation Elite boarding home, doing
22 business as a personal care home, she was -- alleged that the
23 male attendant in charge of predominantly all women residents,
24 she had alleged that he had been having sexual relations with
25 her. That was never proved -- proven. And she, as a result of

1 that accusation, the owner of Creation Elite loaded her and her
2 belongings up and took her to Clinton and placed her in an
3 apartment on her own, by herself, and continued -- the owner
4 continued to receive her Social Security.

5 And my daughter was picked up there by a lady that had
6 befriended her at McDonald's, that had worked at McDonald's and
7 had -- she was sleeping on this lady's couch, and she had
8 been -- had not been properly medicated for months, and she was
9 in apparently a bad state, and she walked out on Raymond Road
10 and was hit by a hit-and-run automobile, and it broke both her
11 legs, her pelvis and a concussion. She was taken to University
12 Medical Center, and they did surgery on the worst leg. The
13 other one was fractured, but they missed it until later. It
14 was caught later by -- Whitfield Hospital found it.

15 They stabilized her and then sent her to a rehab -- Yazoo
16 City to a rehab center where she was allowed to -- a nursing
17 home rehab program, where she was allowed to learn to walk
18 again. And when she was discharged there, she was discharged
19 back to Jackson, Jackson, Mississippi. And the owner of
20 Creation Elite, who by that time, the Mississippi Department of
21 Health had removed her license. And you only have to have a
22 license if you have four or more. And they -- so she took her
23 and took her to her home where she had one other person that
24 she was keeping, and she began taking her Social Security check
25 again. And she's the one that I found out called the police.

1 Q And that's how your daughter ended up in Hinds County?

2 A Got to the Hinds County. And the charge that she was
3 charged with was prior to that automobile hitting her while she
4 was virtually living on the streets, she shoplifted a pair of
5 panties from Walmart at Clinton, and she was caught and
6 charged. And she was out on a bond. And when the car hit her,
7 she did not make the court. And when I backtracked and found
8 out what had happened, she had been brought to Jackson Police
9 Department and placed in the lobby by the Jackson police, who
10 had lied to me and said they didn't. And she was in the lobby,
11 and a bondsman that knew her that had made her bond on the old
12 charge at Clinton walked in to meet court that morning and saw
13 her sitting there. That's how I got the information. I found
14 the bondsman that took her in.

15 Q Okay. And to be clear, at this point, she had already had
16 22 state hospital admissions in the state of Mississippi?

17 A Yes.

18 Q When you found her at the Hinds County Women's Detention
19 Center, what symptoms was she experiencing at that time?

20 A She would not allow the nurse, the duty nurse at the
21 facility, or anyone else, she wouldn't come out of the cell.
22 She wouldn't allow her to take her vitals, to check her blood
23 sugar. When she first got there, the nurse said that she was
24 aware enough --

25 MR. SHELSON: Objection, Your Honor, to, one, hearsay,

1 and two, there's no foundation for how he knows any of this.

2 THE COURT: All right. Objection sustained. You may
3 reask your question, though.

4 MS. VAN EREM: Sure.

5 BY MS. VAN EREM:

6 Q When you arrived at the Hinds County Detention Center, who
7 did you speak with?

8 A At the -- I had filed a complaint in chancery to have a
9 lunacy hearing, a commitment hearing, and when it came time for
10 the court, the judge had appointed two psychiatrists to examine
11 my daughter and appointed an attorney to represent her, and a
12 decision was made, because she couldn't be brought down from --
13 they were having a problem getting her out to bring her down to
14 the courtroom, they sent the doctors and her attorney up, and
15 they came back and reported to me and the court her condition,
16 and --

17 Q What did they report to you?

18 A That --

19 MR. SHELSON: Objection, Your Honor, hearsay.

20 MS. VAN EREM: Your Honor, this falls within the Rule
21 803 exception under both present sense impression and statement
22 made for medical diagnosis.

23 MR. SHELSON: There's been no showing that he's
24 qualified to make a medical diagnosis, and present sense
25 impression is the witness' observations, not what somebody else

1 told him, which we maintain is hearsay.

2 THE COURT: Objection sustained. You may try to get
3 it in through some other way, though.

4 MS. VAN EREM: Sure.

5 BY MS. VAN EREM:

6 Q HB, after you arrived at the Hinds County Women's Detention
7 Center, did you initiate commitment proceedings for your
8 daughter? Did you initiate commitment proceedings for your
9 daughter?

10 A Yes, I did.

11 Q Why did you do that?

12 A Because of her condition that had been reported to me by
13 others.

14 Q And was the condition that had been reported to you worse
15 than you had experienced before?

16 A Yes.

17 Q In what way?

18 A In all the 23 commitments, there was never a commitment
19 that I did, which I was involved in all of them, that was --
20 except the North Mississippi, but all the ones at East
21 Mississippi and that last one at Whitfield, I was involved, and
22 none of those were ever done without her being present in the
23 courtroom, but it was necessary for the judge to do that.

24 Q Why couldn't she be present in the courtroom?

25 A Because of her deteriorated condition.

1 Q In what way was her condition deteriorated?

2 A She was nude from the waist down and had urinated all
3 over -- had soiled herself, urinated on herself, and she
4 couldn't -- she wouldn't come out of the jail cell to come
5 down.

6 Q Okay. To your knowledge, was she receiving mental health
7 treatment at the detention center?

8 A No. I know from discussion with medical staff at the
9 hospital that they felt like the need was there, but they
10 didn't have the resources to take care of it.

11 Q Had she been receiving any community-based services before
12 her January 2014 admission to the state hospital? Let me
13 repeat.

14 A Okay.

15 Q Had she been receiving any community-based mental health
16 services before her January 2014 admission to the state
17 hospital?

18 A Not -- no.

19 Q At that time, were you aware of any services that she could
20 be receiving?

21 A No.

22 Q Sir, I would like to spend some time talking about your
23 daughter's time in her most recent admission to Mississippi
24 State Hospital. How far away from you was your daughter when
25 she was living at the state hospital?

1 A At Mississippi -- at Whitfield?

2 Q Yes.

3 A A couple of hundred miles.

4 Q And during her stays at East Mississippi State Hospital,
5 how far away was she then?

6 A How far away --

7 Q Was she when she was staying at East Mississippi State
8 Hospital?

9 A At East Mississippi? It's located at Meridian. I'm not
10 sure the distance from Jackson to Meridian. At least 50 miles,
11 if not further. It's quite a ways from the coast to Meridian,
12 and I'm just not sure the exact distance.

13 Q Was it difficult for you to visit her?

14 A Yes. Yes.

15 Q Why is that?

16 A Distance, and other family obligations at home, personal
17 disabilities, health issues. I was able, on a couple of
18 occasions, to go visit her at Meridian.

19 Q Did you visit your daughter during her most recent
20 admission to the state hospital?

21 A Yes.

22 Q How many times?

23 A At least seven or eight times specifically, and then there
24 was another 11 or 12 times that I traveled to aid her in having
25 her -- both her knees replaced as a result of the hit-and-run

1 accident that occurred that had injured her so. And it
2 required multiple -- required multiple trips from the coast to
3 Jackson.

4 I was put in the position where I had to find a surgeon
5 that would do the surgery and get the process done.

6 Q And when you visited her in the -- your daughter in the
7 state hospital, how did that make you feel?

8 A Not real well. The place is very noisy, quite -- Building
9 45 was quite crowded. The noise level is high. The
10 cleanliness of the place leaves something to be desired.

11 Q Is Building 45 where your daughter was?

12 A Building 45, yes.

13 Q What are your impressions of the level of privacy in the
14 state hospital?

15 A There virtually isn't any.

16 Q Excuse me. What did you say?

17 A There virtually isn't any privacy for patients. They live
18 in a community-type basis. They bathe, shower in an open
19 shower, and they're kept during the day in a common area, and
20 they sleep in rooms of various numbers, a dorm-type thing. In
21 her case, they restricted her to one or two roommates, I think
22 partially because of her borderline personality disorder.

23 Q What are your impressions of what it would be like to live
24 at Mississippi State Hospital?

25 A It wouldn't be something that I would find to be helpful

1 for anyone, and I certainly wouldn't want to be exposed to it.
2 But I feel bad about it, but that's the only choice that I had.
3 I didn't have any other choices. And it was -- the up side of
4 it is that she was kept reasonably safe, and safe from herself
5 and safe from others.

6 Q Would you have preferred that she avoided her admissions to
7 state hospitals?

8 A Yes, I would have liked to have had other options that
9 were -- were better options, but they weren't there.

10 Q Why did you feel that there was no other option?

11 A Well, I researched. It was -- and tried to find other
12 options, and they just weren't there. I had professional
13 relationship with the -- during the '90s, with the then
14 Attorney General during the '90s, Mike Moore. And I called
15 Mike and asked if they were -- she would -- the process in the
16 state mental health system was that if a person was committed
17 for 30, 60, 90 days to be stabilized and then returned to the
18 community where they came from.

19 And I had gotten to the point, with age and all, and I
20 couldn't keep her safe anymore. So I called to find out if
21 they were any alternatives, and Mike said that the only
22 alternative that he was aware of was those stabilizations and
23 send them back and --

24 Q I'd like to focus you on her most recent admission to the
25 state hospital. When she was -- when she was at the state

1 hospital between 2014 and 2018, did you try to find her a place
2 in the community?

3 A Yes. I first called -- when this -- when she was
4 discharged from the state hospital, I was not aware of ADA, the
5 details of ADA. I wasn't aware of *Olmstead*. I didn't -- I had
6 trusted the State for years to do the right thing, and I had no
7 reason to believe otherwise.

8 And when she was discharged from East Mississippi to
9 Booneville, I explained that I had tried those type things in
10 her earlier years, and they just wouldn't work, that she needed
11 close supervision. Without it, it would be a problem. And
12 I -- so when this happened and she wound up injured in the
13 second personal care home -- by the way, both the personal care
14 homes --

15 MR. SHELSON: Object to -- I think we're getting into
16 an area that's nonresponsive to the question.

17 MS. VAN EREM: I can move on, Your Honor.

18 THE COURT: All right. Thank you.

19 BY MS. VAN EREM:

20 Q So during this last admission, during her last admission to
21 Mississippi State Hospital, who did you contact to help you to
22 find her a place in the community?

23 A I called the Governor's office, and the aide, the
24 Governor's aide referred me to the Mississippi Department of
25 Mental Health, Ms. Vaughn, who represented consumer support, a

1 department of the mental health system, and I had communication
2 with Ms. Vaughn on many occasions.

3 Q Is that Veronica Vaughn? Veronica Vaughn?

4 A Yes, ma'am. Veronica Vaughn. And Ms. Vaughn was unable to
5 find any alternative placement or any appropriate placement for
6 my daughter during that period of time.

7 Q When did you make contact with the Office of Consumer
8 Protection with the Department of Mental Health?

9 A Not long after my daughter was sent to the hospital.

10 Q Sometime in 2014?

11 A Yes, in 2014. I don't know the exact date, but it was
12 early on when she -- not long after -- my first contact with
13 that department was pretty much -- she was sent a couple of
14 days after the hearing, and I had contacted them. By that
15 time, I had already contacted them. They were one of the first
16 people that I contacted.

17 Q What was your understanding at that time of how the
18 Department of Mental Health could help your daughter transition
19 to a place in the community?

20 A Would you -- I didn't catch all of the question.

21 Q Sure. What was your understanding at that time of how the
22 Department of Mental Health might be able to help your daughter
23 transition to a place in the community?

24 A I would have thought that they would be able to find an
25 appropriate placement and help her make that transition, but

1 that turned out not to be the case.

2 Q How long did it ultimately take to find her a placement in
3 the community?

4 A Four years and eight or nine months.

5 Q Why did it take more than four and a half years?

6 A They had to create a place.

7 MS. VAN EREM: Your Honor, if I may briefly confer
8 with my cocounsel.

9 THE COURT: You may.

10 BY MS. VAN EREM:

11 Q I just have a few more questions for you. You mentioned
12 that you originally called the Governor's office in 2014. Why
13 did you make that decision to call the Governor's office?

14 A For guidance. I had ran across the 2011 findings letter
15 from the Department of Justice and had determined that -- by
16 reading that letter, it was clear that the State was obligated
17 to provide services appropriate and consistent with the
18 individual needs of my daughter. And I was trying to get help
19 in finding those services. And that's where they led me to a
20 representative from the Department of Health who was a surveyor
21 of the personal care homes, and they referred me to the
22 department that Ms. Vaughn was director of.

23 Q Okay. In your estimation, since you returned to
24 Mississippi, how many -- how much of your daughter's life has
25 been spent living in a Mississippi State Hospital?

1 A I calculated from '95 to 2014, which is about 24 years.
2 And adding up the various stays that she stayed in the
3 Mississippi hospital system, between East and North and the
4 State Hospital at Whitfield, those three different facilities,
5 she was about half of that -- about 12 years is the total time
6 that she spent. The last two commitments were 11 months and
7 then a six-week break that she was discharged -- an attempt to
8 discharge her that didn't work out. And then she was back for
9 about a four-year stay at East. So she was about five years
10 there and then four and a half years at Whitfield. Go ahead.

11 Q How does that make you feel?

12 A I feel terrible about -- to have to do that, you know. I
13 feel responsible in a lot of ways because I'm the one -- I'm
14 the one to have to do the commitment.

15 Q What effect has having to do -- let me back up. What
16 effect has filing commitments had on you?

17 A I -- it's preoccupied my entire life for the last 24 years.
18 The stress has been terrible.

19 Q How have your daughter's admissions to the state hospitals
20 affected her life?

21 A She's been miserable. She certainly didn't want to be
22 there. She's been there -- she's been -- for the last two
23 stays, as long as they were, I'm not sure that she's not
24 suffering from institutionalization, where you become
25 institutionalized.

1 Q What do you mean by becoming institutionalized?

2 A You become dependent upon the system that you're in. It
3 happens in a criminal system as well.

4 Q Do you have concerns for your daughter's future?

5 A I do.

6 Q What are those concerns?

7 A I'm 75 years old, and I have many issues healthwise. So
8 every day is a gift. And my biggest concern is not having the
9 peace of mind to know that if I die, that nobody else is going
10 to fight for her. Then she's going to wind up back in that
11 same predicament where she was when she was ran over by that
12 car. She'll ultimately die.

13 Q If not for the work you have done to find your daughter her
14 current placement, where do you think she would be right now?

15 A She would still be -- if I had anything to do with it, I
16 would be forced to keep her -- to ask that she be kept at the
17 state hospital at Whitfield. She cannot survive on her own. I
18 tried 20 years of providing houses and overseeing her care, and
19 she can't take care of herself. The intellectual disability
20 precludes that.

21 Q So let me just clarify. If she didn't have access to the
22 current placement where she is now, you believe she'd be at the
23 state hospital?

24 A Yes, and I think that's possible that that may be what's
25 going to happen here shortly if things are --

1 Q I'd just like to remind you about the fact -- the cut-off
2 of 2018.

3 A Okay.

4 MS. VAN EREM: I have no further questions at this
5 time.

6 THE COURT: Okay. Thank you.

7 MR. SHELSON: May I proceed, Your Honor?

8 THE COURT: You may.

9 CROSS-EXAMINATION

10 BY MR. SHELSON:

11 Q Sir, what year did you say you were a police cadet when you
12 first visited Mississippi State Hospital?

13 A Around '70, 1970.

14 Q Do you need -- would you like to take a break, or you would
15 like to continue?

16 A No, sir, I'm fine.

17 Q Okay. And when was the next time after 1970 that you
18 visited Mississippi State Hospital?

19 A It was after my daughter was -- in 2014.

20 Q So approximately 44 years elapsed between what you saw in
21 1970 and when you went back to Mississippi State Hospital in
22 2014?

23 A That is correct.

24 Q All right. And I wasn't clear on this. Of your daughter's
25 commitments to a state hospital in Mississippi, how many of

1 them were you the person who moved to have her committed?

2 A Seventeen, I believe, to East that I was the -- instigated
3 the commitment on. And then the last one to Whitfield -- State
4 Hospital at Whitfield. So that's about 18 of the 23. I
5 believe that's correct, 18 or 19 of the 23.

6 Q Where did your daughter have her knee surgeries following
7 the incident you testified about?

8 A I was able to get a prominent surgeon in Jackson to do it
9 at Baptist Hospital.

10 Q What did you testify to regarding what the medical hospital
11 at Mississippi State Hospital found regarding one of your
12 daughter's legs?

13 A After she was hit by the car you're speaking? They had to
14 do -- one of them was in extremely -- extreme injury that they
15 had to do surgery on to repair it and put it in a cast. They
16 missed a fracture, a break in the other leg. They missed it,
17 and it was -- they found it at Whitfield. They found that
18 break at Whitfield.

19 Q Once that break was found, who treated your daughter for
20 that?

21 A It was too late for any kind of treatment. The next
22 treatment she -- the treatment that they took her to was
23 University Medical Center, where she had originally been
24 treated, and they may have been the ones that found it, but
25 Whitfield's the one that notified me of it.

1 Q You testified that your daughter needs close supervision.

2 What do you mean by close supervision?

3 A That's what the program that the Mississippi Department of
4 Mental Health has set up at --

5 Q Region 8?

6 A Region 8, yes, sir. Thank you.

7 Q Do those -- the facility that your daughter's currently in,
8 does that -- do those homes have a name, to your knowledge?

9 A It does, and I don't have it on the tip of my tongue, and I
10 don't -- I have no papers with me. But it does have -- they
11 named the program when they created it.

12 Q To your knowledge, is it community transition homes?

13 A That sounds reasonably close.

14 Q Over the years, have you corresponded with the U.S.
15 Department of Justice regarding your daughter?

16 A I have.

17 Q Have you done that mostly by e-mails?

18 A A combination.

19 Q Combination of e-mails and what?

20 A Phone call.

21 Q Approximately how many times do you estimate you've
22 communicated with the Department of Justice regarding your
23 daughter since 2014?

24 A I have no recollection of number of times that I may have
25 sent something through an e-mail or a newspaper report or

1 something like that. Any time that I saw anything that I
2 thought would be helpful to the situation, I would forward it
3 on.

4 Q Have you communicated with the Department of Justice more
5 than 50 times?

6 A I don't know. I really don't, sir.

7 Q You testified earlier about a 2014 time where your daughter
8 was in jail in Jackson, Mississippi. Is that correct?

9 A I did.

10 Q And did you make a civil rights complaint to the Department
11 of Justice about that incident?

12 A I did. I made a notification in response to their inquiry.
13 They sent out for anyone that had anyone in the jail to
14 respond, and I notified the Justice Department and -- of the
15 circumstances.

16 Q Did you make a complaint to the Department of Justice
17 regarding what you believed to be corruption and cover-up at
18 the Jackson, Mississippi Social Security office?

19 A I probably notified them of a copy of it, but the complaint
20 would have not necessarily been to them. It would have only
21 have been related to my daughter's situation.

22 Q With regard to the Social Security matter, did you make a
23 complaint to the FBI?

24 A I tried.

25 Q Have you filed a lawsuit in this court regarding your

1 daughter?

2 A I haven't, no, sir. As her conservator --

3 Q As the conservator, did you file a lawsuit in this court
4 regarding your daughter?

5 A I personally didn't. An attorney did on behalf of my
6 daughter through me.

7 Q Okay.

8 MR. SHELSON: Your Honor, may I approach?

9 THE COURT: Yes, you may.

10 BY MR. SHELSON:

11 Q Sir, I've handed you what's been marked as Exhibit D-338.
12 What is this document?

13 A Let me get my glasses on. It's the filing that you
14 referenced.

15 MR. SHELSON: Your Honor, D-338 was filed in this
16 court, and it was filed as a public document, but I've
17 attempted to redact the portion I'm going to display on the
18 Elmo. And let's see.

19 BY MR. SHELSON:

20 Q Is this the lawsuit that was filed by and through you as
21 the conservator for your daughter, on behalf of your daughter?

22 A Yes, sir, it appears to be one and the same.

23 Q Okay. Let's look at paragraph 15, please. It's on page 4
24 of 6. Does it read "At some point thereafter, believed to be
25 late June or early July, the decision was made, after over 20

1 failed attempts, to transfer SB out of the hospital environment
2 back to a personal care home in the community, this time to
3 Creation Elite boarding home in Jackson, Mississippi." Did I
4 read that correctly?

5 A It appears you did, yes, sir.

6 Q Does the next sentence read as follows: "The decision was
7 made over the objections of her father, who pointed out her
8 long record of incompatibility with life outside of closely
9 monitored institutional settings and correspondence with her
10 Department of Mental Health case worker." Did I read that
11 correctly?

12 A It appears you did, yes, sir.

13 Q So -- and where it says "over the objections of her
14 father," is that you?

15 A Yes, sir. Yes, sir. I'm sorry.

16 Q And then it says -- where it says -- refers to closely
17 monitored institutional settings, what type of settings did you
18 have in mind there?

19 A It would be something similar, not exact but similar to the
20 program that she's in now, except it would include psychiatric
21 counseling and support, and that's what the State's testing
22 suggested that was appropriate care for her.

23 MR. SHELSON: Your Honor, we move to have
24 Exhibit D-338 admitted into evidence.

25 THE COURT: Any objection?

1 MS. VAN EREM: No objection.

2 THE COURT: Okay. It will be admitted. We'll make
3 sure all redactions to SB, make sure all redactions are there,
4 as well as its current -- as well as the case file number.

5 MR. SHELSON: Yes, Your Honor. If we may, we'll
6 provide --

7 THE COURT: That's fine.

8 MR. SHELSON: -- tomorrow a redacted -- properly
9 redacted copy.

10 THE COURT: All right. That will be -- I'm sorry. Is
11 that D-338?

12 MR. SHELSON: Yes, sir.

13 THE COURT: It will be received into evidence.

14 (Exhibit D-338 marked)

15 MR. SHELSON: Your Honor, may I approach?

16 THE COURT: Yes, you may.

17 BY MR. SHELSON:

18 Q Sir, you've been handed Exhibit D-345. Do you recognize
19 that document?

20 A Yes, sir. It appears to be an e-mail that I would have
21 sent to a couple of individuals at the Department of Justice.

22 Q Is it dated October 1, 2016?

23 A It is.

24 Q Does it concern your daughter?

25 A It appears to. I haven't read it completely, but it

1 appears to.

2 MR. SHELSON: May I approach?

3 THE COURT: Yes, you may.

4 BY MR. SHELSON:

5 Q I want to display this in a manner that doesn't show your
6 daughter's name. Do you see the highlighted part here? Let me
7 show you where I am.

8 A I saw the highlighted.

9 Q I'm right there.

10 A Start right there? Okay.

11 Q Yes, sir. All right. "So no doubt, even though she is now
12 properly medicated, it will be quite an ordeal to rehab her
13 after a double knee replacement, but the truth is, if it has to
14 be done, the state hospital is the place she would need to be.
15 No private facility can deal with her." Did I read that
16 correctly?

17 A You did.

18 Q All right, sir. I'm going to turn to the next page of your
19 letter. It's the second full paragraph from the top. I've
20 marked out your daughter's name here, but does it then say that
21 "SB still says she does not want to go to a group home or a
22 PCH. She wants nothing other than her own apartment, which, of
23 course -- which is, of course, not possible. But now I have
24 the conservatorship, so the group home may become an option
25 again." Did I read that correctly?

1 A Yeah. I'm not on the right page. What page are you on,
2 sir?

3 Q Page 2.

4 MR. SHELSON: May I approach, Your Honor?

5 THE COURT: Yes, you may.

6 A I wasn't going down far enough. You read it correctly.

7 BY MR. SHELSON:

8 Q So based on your observations of your daughter, can she
9 live on her own in an apartment?

10 A No, sir. I've tried that in an apartment and bought two
11 houses, and she could not take care of herself.

12 Q Based on your observations of your daughter, how
13 independently do you believe your daughter can live in a
14 community setting?

15 A I think she has to have 24/7 oversight, which is -- as
16 again, I use as an example the program that's been established
17 in Mendenhall that she's in now. The only -- that program
18 is -- the only thing that I know that that program is lacking
19 that would be more helpful to her particular treatment would be
20 that it offered psychiatric counseling and support.

21 MR. SHELSON: Your Honor, we move to admit
22 Exhibit D-345 into evidence.

23 THE COURT: Any objection?

24 MS. VAN EREM: No objection.

25 THE COURT: D-345 will be received into evidence.

1 (Exhibit D-345 marked)

2 MR. SHELSON: Your Honor, we'll provide the court a
3 redacted copy of D-345.

4 THE COURT: All right.

5 BY MR. SHELSON:

6 Q Sir, the facility that your daughter's currently at in
7 Mendenhall, what is your understanding of how that facility
8 came about?

9 A It was created by the Mississippi Department of Mental
10 Health, and I don't know the exact reasoning.

11 Q Okay. Based on -- well, how long has your daughter been at
12 the facility, the community transition home in Mendenhall?

13 A She has been there since September of -- mid September of
14 last year.

15 Q Mid September of 2018?

16 A Yes, sir.

17 Q Okay. And based on your observations, how is she doing
18 there?

19 A There's been a recent situation where she had to be sent to
20 their stabilization center. She's -- according to --

21 MS. VAN EREM: Your Honor --

22 THE COURT: I'm sorry. There's an objection?

23 MS. VAN EREM: I'm sorry to interrupt. I just want to
24 clarify the fact cut-off of December 2018 and just ensure that
25 the questions are only regarding December 2018 and prior.

1 MR. SHELSON: I'll rephrase the question, Your Honor.

2 THE COURT: Okay. All right.

3 BY MR. SHELSON:

4 Q Up until December 31st, 2018, based on your observations,
5 how was your daughter doing at the community transition home in
6 Mendenhall?

7 A Fair.

8 Q How frequently do you visit her there?

9 A I've not visited her there since she's been there. I
10 surveyed the property prior to her being relocated there, and I
11 communicate with her on a phone long -- on a regular basis.

12 MR. SHELSON: Your Honor, may I have a moment to
13 confer?

14 THE COURT: Yes, you may.

15 (Short Pause)

16 BY MR. SHELSON:

17 Q Sir, you did -- I believe you testified earlier that your
18 daughter could not survive on her own. Is that correct?

19 A That is -- I believe that's pretty much accurate.

20 MR. SHELSON: No further questions, Your Honor.

21 THE COURT: All right.

22 MR. SHELSON: Thank you, sir.

23 THE WITNESS: Yes, sir.

24 MS. VAN EREM: I may have a few more questions, if I
25 may have just a minute to confer.

1 THE COURT: Yes.

2 (Short Pause)

3 REDIRECT EXAMINATION

4 BY MS. VAN EREM:

5 Q Okay. I've just got a few more questions. Sir, are you
6 ready?

7 A Yes.

8 Q You were asked by Mr. Shelson about a lawsuit regarding
9 your daughter's care.

10 A Yes, ma'am.

11 Q Why did you file that lawsuit? Why did you file that
12 lawsuit as your daughter's conservator?

13 A I was believed to have a fiduciary responsibility to do so
14 on my daughter's behalf. It's my understanding, from advice
15 from counsel, that as long as she didn't have a conservator,
16 any torts committed against her, the time -- she was not
17 limited by time as to when they could be filed. But once I
18 became her conservator, then it became up to me to make a
19 decision to do so.

20 Q And would you prefer that your daughter live in a state
21 hospital or in a safe community setting?

22 A In a safe community setting.

23 Q When your daughter was in her own apartment, was she
24 receiving any community-based mental health services?

25 A No.

1 Q When you said that no -- excuse me. Let me back up.

2 Mr. Shelson showed you an e-mail that you had written and
3 talked about a place where you wrote that no private facility
4 could deal with her. Do you remember that?

5 A I do.

6 Q Was that based on the options you had been offered in the
7 community at the time?

8 A Yes.

9 MS. VAN EREM: No further questions.

10 EXAMINATION BY THE COURT

11 THE COURT: All right. Mr. HB, I have a few
12 questions, to be followed up by the government on anything that
13 I've asked, and then the State, if they wish to. All right?

14 THE WITNESS: Yes, sir.

15 THE COURT: You mentioned that you've adopted your
16 grandchild. When did that adoption take place.

17 THE WITNESS: My wife and I gained custody when he was
18 three days old. And then it took a period of about 24 months,
19 roughly two years, for it to work its way through chancery.
20 And so we had him since he was three days old, but the actual
21 adoption would have been finalized about two years later.

22 THE COURT: How old is that child now?

23 THE WITNESS: Now, his birthday is July -- will be
24 July 15th. He will turn 18 years of age.

25 THE COURT: Is he in high school?

1 THE WITNESS: He is being homeschooled.

2 THE COURT: He's being home schooled?

3 THE WITNESS: He's autistic.

4 THE COURT: Okay. Did his natural father challenge or
5 seek paternity -- I mean, you know, did the natural father
6 oppose the adoption in any way?

7 THE WITNESS: No, sir. He was a married man who
8 fathered him with a mentally disabled individual, which, based
9 on my many years of police work, is a felony in the state of
10 Mississippi. They can't consent, so he was -- he had all the
11 motivation in the world not to challenge anything, and he did
12 not. And no charges were filed against him at all. So he
13 didn't challenge the adoption at all.

14 THE COURT: Okay. So 18, that would have been 18
15 years ago so. So prior to that time, I -- my understanding of
16 your daughter's various commitments and whatnot, she had
17 been -- prior to -- 18 years ago would have been 2001 or so, I
18 guess. He was born in 2001?

19 THE WITNESS: He was born in 2001.

20 THE COURT: And prior to that, your daughter had at
21 least spent some time in East Mississippi State Hospital, and
22 maybe even some other hospitals. Is that a correct statement?

23 THE WITNESS: That is correct.

24 THE COURT: All right. You've indicated that you also
25 have a residence, or you've also lived in Fairhope, Alabama.

1 Is that correct?

2 THE WITNESS: That's correct.

3 THE COURT: Okay. Did you -- while living in Alabama,
4 did you look to see if your daughter could receive treatment or
5 hospitalizations or group homes in Alabama?

6 THE WITNESS: I --

7 THE COURT: Did you investigate that?

8 THE WITNESS: I have investigated it, yes, sir.

9 THE COURT: You did?

10 THE WITNESS: Yes, sir.

11 THE COURT: And what did your investigation reveal?

12 THE WITNESS: During my investigation, it seemed that
13 Alabama was in a similar predicament as Mississippi, as far as
14 services. They had closed all of their state hospitals. They
15 had shut them down completely. And they had set up some mental
16 health treatment centers, community-based, and they funded --
17 they lost funding pretty quickly on those, and those had to be
18 closed.

19 And the -- Your Honor, the biggest -- one of the
20 biggest things with placement with my daughter, and some of the
21 things that I referred to are -- seemed to be cruel, but she's
22 quite disruptive, and it's the borderline personality disorder.
23 She's a very difficult person to deal with with a borderline.
24 So that limits a lot of various placements. But that -- I hope
25 that adequately answers you.

1 THE COURT: It does. Let me ask you something about
2 Creation Elite. You indicated that that facility has been
3 closed, in part at least, because of the circumstances your
4 daughter encountered there or whatever. Is that an -- you said
5 it's your understanding that that facility in Jackson has been
6 closed now. Is that correct?

7 THE WITNESS: Yes, sir. She's pled guilty to three
8 counts of embezzlement and there's still others outstanding.

9 THE COURT: And that's the owner of Creation Elite?

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay.

12 THE WITNESS: Would it be appropriate if I gave you a
13 clarification about the lady that operated that? There's been
14 brought up by the gentleman representing the State was the
15 issue about Social Security. And she was an armed federal
16 security guard in the benefits office of Social Security here
17 in the Federal Building in Jackson. And she was -- according
18 to the Secretary of State's Office, she filed Creation Elite,
19 which was a boarding house, as a nonprofit, which was not a
20 nonprofit. But she had it filed as a nonprofit, and she had
21 been operating it for seven years under -- without the
22 detection of the people at Social Security. While she was in
23 charge of security in the benefits office, she was collecting
24 up to 15 Social Security checks a month and a direct deposit
25 from the United States Department of the Treasury.

1 THE COURT: Okay. And she was ultimately prosecuted
2 for -- what is your understanding as to why she was prosecuted?
3 For the misfeasance or whatever of the Social Security checks?

4 THE WITNESS: The complaint that I filed with the
5 Attorney General's office on her was that she violated the
6 Attorney General's state statute that the Attorney General
7 created, abuse of a vulnerable adult by taking her funds. And
8 apparently, from the best I can tell, because of the actions
9 that I had filed against the State for their inappropriate
10 placement that resulted in the injuries to my daughter, they
11 never prosecuted the complaint for vulnerable -- violation of
12 vulnerable adult, and they let the statute of limitations run,
13 which was two years.

14 And then one day I kept on with Social Security, and I
15 made a complaint with the Inspector General of Social Security.
16 I kept on asking them to prosecute her. They were finally able
17 to get her out of the employment there. They moved her out of
18 the building. Once I turned her in, they moved her out of
19 Social Security, and then later she was discharged. I don't
20 know the circumstances. They don't release that.

21 But one day I get a call from a defense attorney. It
22 was her defense attorney, and he had been given my number by
23 the Attorney General's office, and Social Security had -- I
24 don't know whether it made any difference that I had kept on
25 asking them to please prosecute her, but they had -- they had

1 brought the case back, and this time they did it under
2 embezzlement, which doesn't have a statute. If it does, it
3 hadn't ran.

4 THE COURT: Do you know if the State authorities
5 prosecuted her?

6 THE WITNESS: The attorney --

7 THE COURT: Or the federal authorities?

8 THE WITNESS: The Attorney General -- excuse me, the
9 State Attorney General's Office prosecuted her. But the
10 director -- State Director of Social Security, in a response to
11 one of my inquiries, suggested that they had asked that it be
12 brought back up.

13 THE COURT: Okay. But as far as you know, she was
14 prosecuted by the State?

15 THE WITNESS: They definitely were the prosecuting
16 authority, yes, sir. Regardless of how it came up, they were
17 the one that handled it. Myrick Jackson is the one that I
18 talked with, and that's the first I found out that she was
19 being prosecuted.

20 THE COURT: Okay. Do you know the results of that
21 prosecution?

22 THE WITNESS: I do. I have copies of it. I obtained
23 copies of it, and she pled guilty --

24 THE COURT: Okay.

25 THE WITNESS: -- to embezzlement. And she tried to

1 get that set aside and get the new nonadjudicated. But so far,
2 as far as up until the last time I had checked with the AG's --
3 with the court, the judge that had accepted her plea, and it's
4 been now about a year, and I don't believe the judge has any
5 intentions of doing that.

6 THE COURT: Okay. Let me ask you this. Was that in
7 Hinds County?

8 THE WITNESS: It is.

9 THE COURT: Okay. You indicated that your daughter I
10 believe at one time thought somebody was tampering with, if you
11 will -- maybe that was not the word you used -- with her car?

12 THE WITNESS: Yes.

13 THE COURT: Okay. So she's able to drive a car?

14 THE WITNESS: She was.

15 THE COURT: She was.

16 THE WITNESS: I had --

17 THE COURT: Make sure you're speaking into the mic.

18 THE WITNESS: To answer your question, was she able to
19 drive a car, she was able to drive, not very well, but she was
20 able to get her driver's license. And she did that with the
21 help of someone else. I didn't have enough confidence in her
22 abilities to do it. She wrecked about five of them before I
23 refused to place her in another car, you know.

24 THE COURT: Does she have any relationship with her
25 natural son?

1 THE WITNESS: With her --

2 THE COURT: With her child.

3 THE WITNESS: No, no. As a matter of fact, that's not
4 allowed. I do talk with her about him and tell her the things,
5 how good he's doing, which he is. He does wonderful. He's
6 quite bright, and he has a lot of disabilities that goes with
7 the autism, but he works with them every day. He's an advocate
8 with other people with autism. He's just a remarkable young
9 man.

10 And with her severity of her illness and the
11 circumstances, my wife and I, when we did the adoption, we
12 made -- they set her rights aside, and we took full care and
13 custody of him. When he was a baby, while we were waiting on
14 the adoption, we tried to allow her -- this was when she was
15 not in the hospital, of course -- we tried to allow her to
16 visit from time to time with him, and it became somewhat
17 disruptive. And we made the decision that in the best interest
18 of the child, that we leave it alone and -- the relationship
19 alone and see -- and that's before we knew he was autistic.

20 And then once we knew he was autistic, he actually
21 asked if he was adopted, and we told him yes, he was. We
22 answered him honestly. And he wanted to know about his birth
23 mother, and we put him off on that. And we were in hopes,
24 originally, that when he got to adulthood that we could explain
25 the circumstances when he was capable of understand, but with

1 the autism, we're at a loss as to -- we don't do anything to
2 harm him and to psychologically cause him any problems. My
3 daughter is not capable of true love, you know, healthy love.

4 THE COURT: Okay. Let me -- and I guess the last
5 question I'll ask, when she was involved in the accident or the
6 hit and run, I think you described she was -- must have been
7 walking down the street, the roadway, highway, or wherever she
8 was walking when she was hit by a vehicle, and that's when both
9 of her legs were broken?

10 THE WITNESS: Yes, sir.

11 THE COURT: And her pelvis?

12 THE WITNESS: Pelvis.

13 THE COURT: And all of that.

14 THE WITNESS: And a concussion.

15 THE COURT: How long was she treated in the hospital
16 for those injuries, including any amount of time of
17 rehabilitation?

18 THE WITNESS: Okay. Around five months total, she
19 was -- she had the surgery at North -- or excuse me -- at
20 University Medical Center. And that's where she was taken from
21 the scene, to the University, and they did the surgery on the
22 most serious leg. And it was -- she was probably there a
23 couple weeks.

24 I have recently written for a discharge summary, and
25 I, for some reason, hadn't gotten it back. But the -- she --

1 from there, they discharged her direct to Yazoo City to the
2 rehab, and she was there about four and a half months. So for
3 a total of about five months it took to get her back, and then
4 her legs -- her leg was all twisted and turned inward. And she
5 had difficult walking, and she had pain in her -- a lot of
6 pain. And North -- excuse me -- Whitfield took her several
7 times, when she first got there, back to University Medical
8 Center, where -- to -- and tried to fit her with a brace, and
9 she resisted the brace. She didn't want to wear the brace.

10 And I tried to get Whitfield to do -- to handle the
11 surgery, and the doctor at University Medical Center sent them
12 a letter at their request, that as long as she was a patient at
13 Whitfield, he would not do the surgery.

14 THE COURT: Okay.

15 THE WITNESS: So at that point, I hired an outside
16 orthopedic consultant and got a recommendation for a local
17 surgeon here in Jackson who specialized in knee replacement and
18 was allowed by the State to take her for an exam. And he
19 looked at it and agreed to do the surgery. I went back and
20 talked with the chief of staff out at the hospital, and when
21 he -- as soon as he knew that I had a surgeon that was willing
22 to do the surgery, he said that they would allow it.

23 So they -- what they did was, they released her on a
24 medical release for me to handle all of that and to make sure
25 that the payment was made for it and so forth, which I did.

1 THE COURT: Okay. And I do have a few more questions.

2 Are you married now?

3 THE WITNESS: Yes, sir.

4 THE COURT: Are you married to your daughter's mother?

5 THE WITNESS: No, no. Her mother and I divorced.

6 THE COURT: Okay.

7 THE WITNESS: And her mother passed away several years
8 ago, and I remarried 20-plus years ago.

9 THE COURT: Yeah, I heard you say wife, and I just
10 wanted to make sure.

11 THE WITNESS: Right.

12 THE COURT: Now, is -- you said part of what bothers
13 you is that you don't know if anybody will be around to fight
14 for your daughter if something happened to you.

15 THE WITNESS: That is a concern, yes, sir.

16 THE COURT: Okay. Let me ask you this. Is your son
17 in a position to be able to take care of himself if something
18 happens to you?

19 THE WITNESS: The jury's still out on that question.
20 We're very optimistic and very hopeful, but if he is -- at this
21 point, he is not. He's under the care of both a psychologist
22 and a child psychiatrist, and the child psychiatrist has an
23 autistic child himself, and he treats a lot of autism, and we
24 counseled with them and his -- the psychiatrist that -- the
25 child psychiatrist that he goes to feels like that if he's able

1 to live independently, it will be later in life than a
2 neurotypical individual, maybe in his early 30s before he could
3 really take care of himself. The challenge is whether my wife
4 and I can live long enough to see that happen.

5 So we've made legal provisions in the event that it
6 doesn't, and we just take every day at a time with God's grace,
7 and we try our best to do the best we can with him.

8 THE COURT: Okay.

9 THE WITNESS: And he's a great kid, and he responds
10 great to it, but he is mature intellectually. He's codes,
11 computer coding. Intellectually, in certain areas, he excels.
12 In his contact with other people, he doesn't know how to
13 socialize, you know, the interchange of socialization between
14 people. He's not antisocial, but he understands people. He
15 recognizes good people right away and people who are not
16 really, you know, safe to be around. He's got -- he's got a
17 good sense about himself, and he's blessed. He's very blessed.

18 THE COURT: D-338 is an action that you filed on
19 behalf of your daughter, the lawsuit that was referenced.

20 THE WITNESS: Yes, sir.

21 THE COURT: Do you know the status of that lawsuit?

22 THE WITNESS: It was carried to the Fifth Circuit
23 Court of Appeals, and they upheld -- we never got it certified
24 as a suit. And the State claimed sovereign immunity
25 protection, and they were granted sovereign immunity protection

1 by this court twice. And then on the appeal to the Fifth
2 Circuit, they upheld that sovereign protection.

3 The attorney contacted me and was willing to go
4 further with it, and I told him that I thought that three times
5 was enough and that we should end it. And that was the end of
6 it.

7 The content of the suit, of course, was done by the
8 attorney, naturally. I see some of that that referenced by the
9 State's side myself where it talks about 20 times --

10 THE COURT: That's --

11 THE WITNESS: That's not accurate.

12 THE COURT: That's fine. That's fine.

13 THE WITNESS: So that case is dead.

14 THE COURT: Okay. You indicated that -- I think the
15 State asked you a question that you -- and you answered
16 correctly, that you instituted commitment proceedings a number
17 of different times, that caused your daughter to be committed?

18 THE WITNESS: Uh-huh.

19 THE COURT: And each one of those commitments was to a
20 state hospital. Is that correct?

21 THE WITNESS: Yes, sir.

22 THE COURT: All right. The court determined that --
23 she would have to go to the state hospital. Right?

24 THE WITNESS: That's correct.

25 THE COURT: All right. If the chancellor had

1 committed her to a group home, for example, if that was an
2 option, would you have been satisfied with that option, if she
3 could have been -- if the court had committed her to a group
4 home?

5 THE WITNESS: There was a time, on group homes, that I
6 would have been more than happy for her to go in a group home.
7 I don't -- so the answer to your question technically would be
8 yes, sir.

9 THE COURT: Or some other licensed facility that if
10 the court had placed her at a licensed facility that could have
11 taken care of her, would you have been satisfied is my
12 question?

13 THE WITNESS: Yes, sir. A license certified by the
14 Mississippi Department of Mental Health is all I ever asked
15 for. That way there's responsibility. Putting a person in a
16 personal care home, which is nothing other than a barbaric
17 boarding home that are licensed with \$100 and no felony
18 conviction offers no mental health care. They are boarding
19 homes.

20 So that's what -- that's why -- that's why my daughter
21 got into that dangerous situation and almost got killed in that
22 placement there in the personal care home. So what -- I've
23 said this to the Mississippi Department of Mental Health many
24 times, and the chief of staff, the doctor there, has worked --
25 back when she was in the hospital, he had worked very close

1 with me and was very professional and handled the case. I
2 can't say enough good things about the doctor. And the -- my
3 only thing -- his one thing was we want to keep her safe,
4 and that's -- that's why I liked him because --

5 THE COURT: And that's what you wanted?

6 THE WITNESS: That's what I wanted. I wanted her
7 safe. That's all. That's all.

8 THE COURT: Thank you, Mr. HB.

9 Now, based on those questions, does the United States
10 have any questions, any follow-up questions of this witness?

11 MS. VAN EREM: No, Your Honor.

12 THE COURT: All right. Mr. Shelson, does the State of
13 Mississippi have any questions?

14 MR. SHELSON: No, Your Honor.

15 THE COURT: All right. Thank you, Mr. HB. Is this
16 witness finally excused?

17 MS. VAN EREM: Yes, Your Honor.

18 THE COURT: All right. You may be excused, sir, and
19 go about your regular duties. Thank you for your testimony.

20 THE WITNESS: Thank you, sir.

21 THE COURT: All right. At this time, we'll take our
22 morning break for about 15 minutes. It's 11:02. We'll come
23 back at 11:20, and we'll take up anything that needs to be
24 taken up at that point. We are in recess.

25 (Recess)

THE COURT: Is there anything we need to take up before you call your next witness?

MS. VAN EREM: No, Your Honor.

THE COURT: All right. You may proceed.

MS. VAN EREM: The United States calls CR.

(Witness Sworn)

THE COURT: You can adjust, Ms. CR, the microphone any way you wish. Please speak loudly and clearly enough for us all to hear you. Speak at a pace at which the court reporter can keep up with you. Make sure all your responses are verbal, and try to avoid using uh-huh and unh-unh. If you nod or shake your head, just say yes or no along with that, and we'll try to monitor that.

But for the record -- well, you're CR, so it doesn't matter about stating and spelling your name. I can spell CR easily. You may proceed.

MS. VAN EREM: Thank you, Your Honor.

CR,

having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. VAN EREM:

Q CR, as Your Honor has referenced, we'll be using initials in referring to you and your family members to protect confidentiality. Do you understand that?

A Yes.

1 Q And for the purposes of my questions today, I would
2 appreciate if you focus on the facts that existed through the
3 end of 2018, which is the relevant period for purposes of this
4 trial. Do you understand that?

5 A Yes.

6 Q Ms. CR, where do you reside?

7 A In Jackson, Mississippi.

8 Q How long have you lived in Mississippi?

9 A Fifty-one years.

10 Q Where were you born?

11 A A small town in the Mississippi Delta, Shelby, Mississippi.

12 Q What is your educational background?

13 A I attended college at Mississippi University for Women. I
14 graduated from the University of Mississippi School of Law.

15 Q Are you employed?

16 A Yes, I am.

17 Q Where?

18 A City of Jackson, Office of the City Attorney.

19 Q Do you have any family members who have been admitted to a
20 state hospital in Mississippi?

21 A Yes.

22 Q And we'll be speaking about one of those family members
23 today. I'm going to refer to him as TM. Is that okay?

24 A Yes.

25 MS. VAN EREM: Your Honor, may I approach.

1 THE COURT: Yes, you may.

2 BY MS. VAN EREM:

3 Q Is what I just handed you a picture of TM?

4 A The male, yes.

5 Q And it's been marked for identification as PDX-10. Who are
6 the other people in this photo?

7 A The lady in the blue dress is TM's grandmother. The one
8 seated -- sitting on the sofa is TM's mother.

9 Q Okay. How are you related to TM?

10 A TM is my cousin within the third degree.

11 Q Okay. So does that mean that you're -- what does that
12 mean?

13 A TM's mother and my mother were first cousins. TM's mother
14 is my second cousin.

15 Q Where is TM from?

16 A Cleveland, Mississippi.

17 Q Is that in the Mississippi Delta region?

18 A Yes, Bolivar County.

19 Q How old is TM?

20 A He turned 38 this year, on February 12th.

21 Q How would you describe TM's personality?

22 A He's generous. He cracks jokes. He smiles often.

23 Q Do you have a story about TM that you would like to share
24 with the court?

25 A There are many, but one that I can recall concerning TM

1 occurred about three years ago. I picked him up from a
2 personal care home and took him to visit with his mother in
3 Cleveland, Mississippi. My grandmother lived in Cleveland,
4 Mississippi also.

5 It was a couple of days after Christmas. TM had not seen
6 his mother in a significant period of time. When we arrived in
7 Cleveland, I went to my grandmother's house. TM was with me.
8 He had a tube of toothpaste and a bar of soap. When he walked
9 in, he said, *Here, Aunt Otha.* My grandmother said, *Place*
10 *that -- she had a shelf with pictures in her front room.* She
11 said, *Place that on the shelf so that can I look at it.* *He*
12 *brought me something that I could use. Sometimes people bring*
13 *me things I can't use.*

14 As we were getting ready to leave, his grandmother came by,
15 because she was in Cleveland, had been shopping and came by to
16 see my grandmother, which is her sister. She gave him a
17 five-dollar bill and hugged him. As we were departing to come
18 back to Jackson, my uncle came through the door. TM handed the
19 five-dollar bill that he had just been given by his grandmother
20 to my uncle. My uncle refused to accept it, came into the
21 house quite upset, stating, *You all have to watch him. He will*
22 *give every penny he has away. He just handed me the five*
23 *dollars.* His grandmother said, *I just gave him the five*
24 *dollars.*

25 Q So it's fair to say he's generous?

1 A Yes.

2 Q Is family important to TM?

3 A Yes.

4 Q Where does TM live?

5 A Here in Jackson on Cooper Road.

6 Q Where does TM want to live?

7 A There have been occasions where TM stated to me that he
8 would like to be close to his home in the Mississippi Delta.

9 Q Do you have a close relationship with TM?

10 A I'm the family member that usually visits him, since he's
11 here in Jackson. So I would say we're close.

12 Q How often do you speak with TM?

13 A At least once a week.

14 Q When did he become involved with TM's life?

15 A TM was here residing in Jackson. I was not aware of it
16 until I got a telephone call from his grandmother. There had
17 been -- he was at a personal care home, and the personal care
18 home operator had contacted her about him, and she told me
19 where he was. So I went to check on him and to see how he was
20 doing. That may have been -- it was probably somewhere around
21 the year 2009, maybe.

22 Q Have you been involved with obtaining disability benefits
23 for TM?

24 A Yes. I represented him in a case before the Social
25 Security Administration.

1 Q Why did you decide to assist with obtaining those benefits
2 for TM?

3 A He needed them.

4 Q Does TM keep in contact with any other family members?

5 A He calls his mother, his grandmother. I'm not certain if
6 he has contact with a brother and a sister. One brother is
7 incarcerated. One brother is in the state of Georgia. His
8 sister is in Cleveland.

9 Q And I think you said his mother and grandmother live in
10 Cleveland. Is that right?

11 A Mother lives in Cleveland, Mississippi in an assisted
12 living facility. Grandmother lives in my hometown, which is
13 Shelby, Mississippi.

14 Q And approximately how far away is Cleveland, Mississippi
15 from Jackson?

16 A About two hours and 15 minutes.

17 Q Is it similar for Shelby, Mississippi?

18 A Shelby and -- the distance between Shelby and Cleveland is
19 15 miles. So it's a little further.

20 Q Okay. Do you have any other family members who have
21 serious mental illness?

22 A I have a aunt, my mother's sister, who has had mental
23 health issues for as long as I can remember as a child growing
24 up. She has been admitted to the state hospital on occasion,
25 and she currently resides in a nursing facility in Cleveland,

1 Mississippi.

2 Q And does TM's mother also have serious mental illness?

3 A She's been diagnosed, based upon information reported from
4 her to me, with bipolar disorder.

5 Q How often does TM see his grandmother and his mother?

6 A He sees them usually maybe once a year if I am traveling in
7 that area and I take him with me.

8 Q Are you the person who generally brings TM to see his
9 grandmother and mother?

10 A The last few instances where he has seen them, yes.

11 Q Did TM have a serious mental illness?

12 A His condition -- he was diagnosed with disorganized
13 schizophrenia.

14 Q Has he spent time in a state hospital in Mississippi?

15 A Yes, he has.

16 Q Yes? What are some of TM's symptoms?

17 A Medical reports indicate that he has heard voices,
18 hallucinations, irritability.

19 Q Does he have variation in his symptoms?

20 A I don't know. I can only speak based upon what I read in
21 medical reports, according to when I was representing him in
22 the Social Security Disability matter.

23 Q Have you witnessed TM on both good days and bad days?

24 A I have seen him probably at his worst on December 29th,
25 2016.

1 Q What is TM like on his good days?

2 A On his good days, he's calm. He's capable of communicating
3 with you about what he likes, what he dislikes, what he has
4 done during the day. Some of the thoughts may be incoherent as
5 a result of his mental impairments, but he is capable of
6 communicating with you. He's much like what you see in the
7 picture that's before me.

8 Q What do you mean by that?

9 A On his good days. He's smiling, he's laughing, he's
10 hugging his family members.

11 Q To your knowledge, how many times has TM been admitted to a
12 state hospital in Mississippi?

13 A Six, that I am aware of. Three instances were reflected in
14 medical reports from 2004 to 2013. Those medical reports are
15 contained in the Social Security Administration file, and
16 that's -- that was three instances. After he had been
17 approved -- after the Social Security hearing, I've learned of
18 three other instances where he was admitted, and I actually
19 visited him at the state hospital on those three occasions.

20 Q Those three hospitalizations -- hospitals where you visited
21 him, which hospitals were those?

22 A Two were at the Mississippi State Hospital at Whitfield.
23 One at East Mississippi State Hospital in Meridian.

24 Q When was his most recent admission to a state hospital?

25 A 2018. I'm not sure the exact date, but I visited him on

1 December 7th, 2018, at the Mississippi State Hospital at
2 Whitfield.

3 Q How do you generally find out when TM is hospitalized?

4 A The three instances where I visited him, I received a call
5 from a social worker for the State.

6 Q During the most recent admission of TM, what happened
7 during that phone call?

8 A The social worker -- it may have been late November of
9 2018. A social worker from the Mississippi State Hospital
10 telephoned me and asked, *What is the discharge plan for TM?* I
11 said in response, *I don't know what the discharge plan is for*
12 *TM because this is the first instance that I have knowledge*
13 *that TM has been admitted to the Mississippi State Hospital.* I
14 then shared with him information concerning TM's family and the
15 history as it relates to his residential living at personal
16 care homes.

17 Q Has the state hospital ever contacted you to discuss what
18 events precipitate TM's admission to the state hospital?

19 A No.

20 Q What were your impressions of TM's stay -- stays at the
21 state hospital?

22 A On my visits, when I would visit him --

23 Q That's right.

24 A -- which was usually on weekends, either a Saturday or a
25 Sunday, we talked about family. He appeared to be stable. He

1 laughed, asked about family members, and he shared with me that
2 he wanted to be released.

3 Q You mentioned you would visit him on a Saturday or Sunday.
4 Is that because that's when the visiting hours are?

5 A My understanding, they may have visiting hours during the
6 week, but the visiting -- visitation hours during the week are
7 at times when I am usually at work.

8 Q You were deposed in this litigation last Friday, weren't
9 you?

10 A Yes.

11 Q Did you bring a letter with you to that deposition?

12 A I did.

13 MS. VAN EREM: Your Honor, may I approach?

14 THE COURT: Yes, you may.

15 MS. VAN EREM: I apologize, Your Honor. Before I go
16 on, I just wanted to clarify I mentioned the photo that was
17 PDX-10, but it is actually PDX-11.

18 THE COURT: It is. That's marked for identification
19 purposes only. Correct?

20 MS. VAN EREM: That's correct.

21 THE COURT: Okay.

22 BY MS. VAN EREM:

23 Q CR, is this a copy of the letter that you brought to your
24 deposition on Friday?

25 A Yes, it is.

1 Q Do you see some redactions on it?

2 A At the top, in the right corner, looks -- and also
3 throughout.

4 Q I can represent we redacted to remove personally
5 identifiable information. What is this letter?

6 A It's a letter that TM wrote and sent to his mother when he
7 was at East Mississippi State Hospital. His mother mailed the
8 letter to me.

9 MS. VAN EREM: This letter has been marked for this
10 case as PX-1102. Your Honor, I move to admit PX-1102 into
11 evidence.

12 THE COURT: Any objection from the State?

13 MR. SHELSON: No, sir.

14 THE COURT: All right. PX-1102 will be received into
15 evidence.

16 (Exhibit PX-1102 marked)

17 BY MS. VAN EREM:

18 Q What does this letter say? And feel free to read the
19 letter.

20 A "Hi, Mom: Could you send me my clothes that's at your home
21 here? It's getting cold. I have three outfits. I've been
22 down here since September, 2017. When I get released, I want
23 you to look into me coming home. If you're not comfortable
24 with me moving home, checking -- check in to me moving to
25 Greenville group home. That's the best way I can think of,

1 because Clubhouse has job-ready programs where I can save and
2 earn food. I get SSI. Get them to send you or" -- and there's
3 a person identified there -- "enough money -- get the money to
4 package a box, my clothes, shoes, that I asked for. I'm not
5 sure when and if I'll ever see you again. So be sure to take
6 this into consideration. I can't give you all the details, but
7 I'm sure I've done -- since I've done. Send as soon as
8 possible, or give what I ask by" -- and there's a person
9 identified -- "if she can bring down here on visitation day, or
10 get address and mail." Above the visitation word, the words
11 "get time and day of visitation" are written. "All I know is,
12 with my condition, it's getting better, other than flare-ups,
13 from what I've witnessed in life. I think I should be closer
14 to home, the closer with you than we are now, because life
15 ain't promised to nobody. Send those old clothes I left at
16 your home here along with a pair of slip-in house shoes and
17 size 11 Jordans. If you can tell" -- and there's a person
18 identified there -- "to get the size 11 Jordans online and get
19 a furry pair of house shoes."

20 Q There's a mention of a Greenville group home in that
21 letter. Did TM ever move to the Greenville group home?

22 A I don't -- not immediately after his discharge from East
23 Mississippi State Hospital. After his discharge from East
24 Mississippi State Hospital, he returned here to Jackson.

25 Q Is Greenville closer to his mother than Jackson?

1 A There is -- from Cleveland to Jackson, it's about a
2 45-minute drive, so I would say yes.

3 Q Excuse me. From Cleveland to Greenville?

4 A From Cleveland, Mississippi to Greenville is probably
5 between 30 to 45 minutes. So I would say, yes, it is closer.

6 Q To your knowledge --

7 THE COURT: You originally said Greenville to Jackson
8 was 45.

9 THE WITNESS: I'm sorry. I'm sorry.

10 THE COURT: I mean, you said Cleveland to Jackson was
11 45 minutes. You meant Cleveland to Greenville. Right?

12 THE WITNESS: Yes, I meant Cleveland to Greenville.

13 BY MS. VAN EREM:

14 Q And earlier you had testified -- let me get this right --
15 Cleveland is Jackson is about two and a half hours. Is that
16 right?

17 A Close, yes.

18 Q Okay. To your knowledge, why did TM say he wasn't sure if
19 he would see his mother again?

20 A TM usually did not see his mother because she didn't -- she
21 could not drive to Jackson unless I took him to the Delta with
22 me to visit with his mother.

23 Q Was his mother able to visit him when he was in the state
24 hospital?

25 A His mother -- which admission?

1 Q During the admission where he wrote this letter.

2 A His mother, at that time, would not have been able to
3 travel from Cleveland to Meridian to visit. She lacked
4 transportation. She also has mental -- some mental and
5 physical impairments in which that type of travel alone would
6 not be feasible.

7 Q How did you react when you read this letter?

8 A It's heart-breaking.

9 Q What do you mean by that?

10 A There is a family member who is communicating with his
11 mother and stating, "I don't know when I will see you again."

12 Q Based on this letter, did you conclude anything about
13 whether TM felt he was ready to leave the state hospital?

14 MR. SHELSON: Your Honor, that calls for speculation.
15 We object.

16 MS. VAN EREM: I can move on.

17 THE COURT: All right. Thank you. Objection
18 sustained.

19 BY MS. VAN EREM:

20 Q CR, I'd like to shift to some of the services, to some
21 questions about community-based services. Have you ever been
22 informed about crisis services in the community to assist TM if
23 his symptoms start to increase?

24 A No.

25 Q If TM could receive services to stabilize him in the

community when he's experiencing a crisis, would you prefer that to him entering a state hospital?

A Yes.

Q Why?

A No family member wants a person they care about to be in an institutional setting. To the extent that they can be -- receive services and what is required for them to exist in the community amongst family, then I think that any family member would prefer that. And for him, because his mother and grandmother are not able to travel two and a half hours away, then certainly it would be a preference so that he can be in contact with them.

Q Do you mean by that that it would be easier for him to be in contact with them if he's in the community?

A If he's in the community close to where he lives, there are family members who can visit with him, check on him. The grandmother drove to Cleveland from Shelby, in that photo, to visit with him when she learned that I was bringing him for a visit with his mother.

Q What setting would TM like to live in?

A I can't say. I know that TM has shared with me on some occasions that he would like to live independently in an apartment of his own.

Q Why would TM like his own apartment?

MR. SHELSON: Objection, Your Honor. No foundation.

1 So I don't -- it's either -- could possibly either call for
2 hearsay or speculation. But at this point, there's no
3 foundation, so we object.

4 THE COURT: You may rephrase your question. Objection
5 sustained.

6 BY MS. VAN EREM:

7 Q CR, based on your understanding and your interactions with
8 TM, why do you think that he would like his own apartment?

9 A TM has other family members who live independently, his
10 sister and a brother. He's like most of us. He realizes and
11 knows that he's an adult man, and as an adult man, that's what
12 you do. You live independently.

13 Q Has anyone at the state hospital -- let me rephrase that.
14 Has anyone at a Mississippi State Hospital discussed with you
15 possibilities of where TM could live?

16 A No, none other than calling and saying to me, what is his
17 discharge plan.

18 Q Had you heard about permanent supported housing from anyone
19 at the state hospital?

20 A No, don't know what it is.

21 Q Do you think that TM could successfully live in his own
22 apartment if he had some community-based services in place?

23 A TM, at this time, is living in a house with another
24 gentleman that is owned by or either being leased by someone.
25 That person ensures that TM has food and sends someone to give

1 him medications. So I think if TM had those services within
2 his community, he would be able to do it.

3 Q Just to clarify, you think that TM needs assistance with
4 medications?

5 A TM will take medications. I think that he just needs some
6 assistance with ensuring that he receives it at the proper
7 time. But he will take it.

8 Q Would a service like case management help TM?

9 A I think so.

10 Q Would TM be opposed to receiving those services in his --
11 in his own apartment?

12 MR. SHELSON: Objection, Your Honor, no foundation.
13 Calls for speculation or hearsay.

14 MS. VAN EREM: I can rephrase.

15 THE COURT: Rephrase.

16 BY MS. VAN EREM:

17 Q Based on your interactions with and your understanding of
18 TM, do you think he would be opposed to receiving
19 community-based services in his apartment?

20 A I don't think he would be opposed, no.

21 Q Over the past years working with TM, did you become aware
22 of whether services were available to support him in his own
23 apartment?

24 A No.

25 Q Is there anything else that you think would be helpful to

1 keep TM out of the state hospital?

2 A I think if TM had housing, consistent medication management
3 and services, he would be less likely to be admitted to the
4 state hospital.

5 MS. VAN EREM: Your Honor, may I briefly confer with
6 cocounsel.

7 THE COURT: Yes, you may.

8 (Short Pause)

9 BY MS. VAN EREM:

10 Q I just have a couple more questions for you.

11 A Okay.

12 Q Based on what you know about TM, how do you think his state
13 hospitalizations have affected him?

14 A TM has not --

15 MR. SHELSON: Objection, Your Honor. No foundation.
16 And it vague and ambiguous. Affected him in what sense?

17 THE COURT: Rephrase your question.

18 BY MS. VAN EREM:

19 Q Based on your knowledge of TM and your interactions with
20 and your understanding of TM, do you believe his state
21 hospitalizations have affected him in any way?

22 A TM, on the visits when I went to visit him at the state
23 hospitals, shared with me that he did not want to be there, and
24 he shared with me that he wanted to be released. That is the
25 extent of my conversations with TM as to the admissions to the

1 state hospital.

2 Q How have TM's state hospitalizations affected your family?

3 MR. SHELSON: Object to her addressing that beyond
4 herself unless there's a foundation established for how she
5 knows how it affected other family members.

6 THE COURT: Objection overruled. You may answer.

7 A One family member, TM's mother, when she learned that he
8 was at East Mississippi State Hospital and shared with me that
9 she was going to send the letter he had mailed, her statement
10 to me was, *Tell him be strong and pray. It will get better.*

11 BY MS. VAN EREM:

12 Q Do you have a reason to believe that it's difficult for
13 TM's mother to hear that he's in the hospital?

14 A TM's mother has the love that a mother would have for a
15 child. She cares for him, and she's concerned about him. So I
16 would say, yes, when she hears that he has been admitted to the
17 state hospital, that she is or has some sorrow.

18 Q One final question. How have TM's hospitalizations
19 affected you?

20 A I am usually the family member who goes to visit. It is
21 not comfortable going to a state hospital to visit a family
22 member, but I do it, because he needs to know that someone
23 cares. I also think that it's important for a family member
24 when they are in a state -- when there are people in a state
25 hospital, I think it's important for family members to visit

1 and reach out. It encourages. And for someone like TM, who
2 loves his family, wants to be near them, it's important. And
3 I'm just the one who cares enough to go.

4 Q Thank you, CR. I have no further questions at this time.

5 MR. SHELSON: May I proceed, Your Honor?

6 THE COURT: Yes, you may.

7 CROSS-EXAMINATION

8 BY MR. SHELSON:

9 Q Good afternoon.

10 A Good afternoon.

11 Q It's a little awkward saying CR, but good afternoon CR.

12 I'll be brief. Are you TM's guardian?

13 A No, I'm not.

14 Q Are you his conservator?

15 A No, I'm not.

16 Q Do you have any other fiduciary relationship with TM?

17 A I would not say that I do. I'm just the cousin who is
18 concerned about him.

19 Q All right. Have you personally visited TM three times at a
20 state hospital?

21 A Yes.

22 Q All right. So let's talk about the first visit. The first
23 time you visited TM at a state hospital, which state hospital
24 was that?

25 A Mississippi State Hospital at Whitfield.

1 Q During that visit, based on your observations, how was TM
2 doing?

3 A Based upon observations, TM was -- he was stable. We
4 laughed. He asked about family. I told him and gave him
5 updates about family.

6 Q And where was -- strike that. At what hospital was your
7 second visit with TM?

8 A The second -- the second visit occurred when he was at East
9 Mississippi State Hospital, November 25th, 2017.

10 Q And based on your observations during that visit, how was
11 TM doing?

12 A He was -- he was stable. I did not detect any unusual
13 problems for a person with his condition.

14 Q And the third time you personally visited TM, where was he?

15 A Mississippi State Hospital at Whitfield, December 7th,
16 2018.

17 Q On that occasion when you visited TM, based on your
18 observations, how was he doing?

19 A He talked about family and shared with me that he was ready
20 to be released.

21 Q A photograph that's been marked for identification as
22 PDX-11, the one you have there, when was that photograph taken?

23 A May 27th, 2019.

24 Q Do you remember during your deposition, I asked you, "So do
25 you have any complaints or criticisms of the care, treatment,

1 TM has received through the State of Mississippi?"

2 A I do recall that question.

3 Q Do you remember your answer?

4 A I said, "I can't criticize because I was not present during
5 the treatment, and I'm not certain of the nature of the care
6 and treatment that he received." I believe that's my answer.

7 Q Did you also say, "And I would go, and when I went on those
8 visits, I believe he was as good as he could be?"

9 A I did say that.

10 MR. SHELSON: May I have a moment to confer, Your
11 Honor.

12 THE COURT: All right.

13 (Short Pause)

14 BY MR. SHELSON:

15 Q Thank you, CR. That's all the questions I have.

16 MR. SHELSON: And thank you, Your Honor.

17 THE COURT: All right.

18 Any redirect of this witness?

19 MS. VAN EREM: No, Your Honor.

20 EXAMINATION BY THE COURT

21 THE COURT: Okay. The court does have one question
22 for CR, and then the parties may follow up based on the
23 questions that I've asked. Early on in your testimony, CR, you
24 indicated what TM's good days were like. You said he's calm,
25 capable of communicating his likes and dislikes, and things of

1 that sort. But immediately prior to that part of your
2 testimony, you indicated that you saw him at his worst, and you
3 said that that date was December 29th, 2016. And I don't think
4 you were allowed to elaborate on what you saw as his worst. I
5 don't think I ever heard any follow-up about that. What did
6 you observe on December 29th, 2016.

7 THE WITNESS: On December 29th, 2016, the personal
8 care home where TM had been residing was being closed down by
9 the Mississippi State Department of Health because it was not a
10 licensed facility. I received a call from a church member and
11 friend who was present on site because she was friends with
12 another personal care home operator. They were placing the
13 residents and contacting family members to come and get the
14 family members.

15 I left work, went to the location. TM was quite
16 agitated. He was walking, pacing, ranting. I thought it was
17 because of the situation. The individual who called me was a
18 nurse. She said, *I believe he needs medical attention. He may*
19 *be noncompliant, or there may have been some medication doses*
20 *missed.*

21 He was not violent. He was not threatening to harm
22 anyone or himself. But he expressed discontentment at the
23 situation. He expressed concern about where he would go. I
24 took -- I said to him that I believe you need to eat, and I'm
25 going to take you with me. We got into my truck. I asked if

1 he was hungry, and when was the last time he had eaten. He
 2 didn't tell me exactly the last time he had eaten, but he did
 3 say, *I want McDonald's.* We went to McDonald's.

4 After leaving McDonald's, he said, *Take me to*
 5 *St. Dominic's emergency room.* And I asked, *Why?* He said, *Take*
 6 *me to St. Dominic's emergency room.* He would not share with me
 7 what was happening, but I did as he requested. When we -- he
 8 asked me actually to just drop him off and leave him. I said,
 9 *I won't leave you here without knowing what is going to happen*
 10 *to you.*

11 The admissions clerk at St. Dominic's stated to me
 12 that he had been there previously and that a doctor, a
 13 psychologist or psychiatrist would evaluate him, and they would
 14 let me know whether or not he was going to be admitted to their
 15 behavioral health unit. So I waited in the ER a couple of
 16 hours, and then I asked what was his status. The admissions
 17 clerk said, *Did not a nurse come and talk to you?* And I said,
 18 *No.* She said, *I will send someone out.* The nurse came and
 19 said that the doctor had evaluated him, and they were going to
 20 admit him to their behavioral health unit. I left.

21 And then several days later, I got calls from the
 22 social worker advising me that his condition had improved, and
 23 he was ready to be discharged, and we located another personal
 24 care home for him to go to.

25 THE COURT: Did the social worker from St. Dominic's

1 discuss with you his discharge plans or anything of that sort?

2 THE WITNESS: The social worker shared with me -- we
3 talked about where he would be going. The location was another
4 personal care home, which was -- was a licensed facility that
5 had been disclosed to me by the Mississippi State Department of
6 Health nurse when they were on site closing down that facility
7 on December 29, 2016.

8 The social worker also gave my cousin some document as
9 it relates to his discharge instructions, which we gave to that
10 personal care home operator. I believe the social worker
11 indicated that there was an appointment or a follow-up
12 appointment set for him at the regional mental health facility
13 here in Jackson.

14 THE COURT: The facility he was in on December 29,
15 2016, was that in Hinds County?

16 THE WITNESS: It was in Jackson, Hinds County.

17 THE COURT: And the facility that he was released to
18 after being released from St. Dominic's, was that too in Hinds
19 County?

20 THE WITNESS: It was in Jackson.

21 THE COURT: It was in Jackson. Thank you. Are there
22 any follow-up questions based on what I have asked?

23 MS. VAN EREM: I do have a couple, Your Honor.

24 THE COURT: All right.

25 REDIRECT EXAMINATION

1 BY MS. VAN EREM:

2 Q On that date in December 2016, were you aware of any
3 community-based services that TM was receiving at that time?

4 A No.

5 Q To your knowledge, was mobile crisis called at the time
6 when he was exhibiting his symptoms that you described?

7 A Not to my knowledge, no.

8 MS. VAN EREM: Nothing further.

9 THE COURT: All right. Does the State have any
10 follow-up based on what I've asked?

11 MR. SHELSON: No, sir.

12 THE COURT: All right. CR, you may step down and
13 return -- is this witness finally excused?

14 MS. VAN EREM: Yes, she is.

15 THE COURT: All right. You may step down and return
16 to your normal duties.

17 All right. We're at the time where we can take our
18 lunch break. It's approximately 12:15. Let's start back up at
19 1:35. Is there anything we need to take up before we go to
20 lunch?

21 MS. RUSH: Not from the United States, Your Honor.

22 MR. SHELSON: No, Your Honor.

23 THE COURT: All right. We're in recess until 1:35.
24 Thank you.

25 (Recess)

1 CERTIFICATE OF REPORTER
2

3 I, CHERIE GALLASPY BOND, Official Court Reporter, United
4 States District Court, Southern District of Mississippi, do
5 hereby certify that the above and foregoing pages contain a
6 full, true and correct transcript of the proceedings had in the
7 aforesigned case at the time and place indicated, which
8 proceedings were recorded by me to the best of my skill and
9 ability.

10 I certify that the transcript fees and format comply
11 with those prescribed by the Court and Judicial Conference of
12 the United States.

13
14 This the 11th day of June, 2019.
15

16 s/ *Cherie G. Bond*
17 Cherie G. Bond
Court Reporter
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